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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 31 March 2004 from the Permanent Mission of Lithuania to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Lithuania to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to submit the report of the Republic of Lithuania in accordance with paragraph 6 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 31 March 2004 from the Permanent Mission of Lithuania to the United Nations addressed to the Chairman of the Committee

Report of Lithuania on the implementation of United Nations Security Council resolution 1455 (2003)

Report of the Republic of Lithuania on the implementation of United Nations Security Council resolution 1455 (2003)

I. Introduction

(Question 1) So far, no activities of the individuals or entities designated by the 1267 Committee have been observed in Lithuania. Presently the designated individuals or entities are not regarded as posing a direct threat to Lithuania.

II. Consolidated List

(Question 2) To implement UN Security Council resolutions imposing sanctions on individuals and entities designated by the 1267 Committee the Government of the Republic of Lithuania has adopted the following resolutions:

- To implement UNSCR 1267 (1999) the Government has adopted resolution No.1442 on 20 December 1999;
- To implement UNSCR 1333 (2000) and UNSCR 1373 (2001) the Government has adopted resolution No.1281 on 31 October 2001;
- To implement UNSCR 1388 (2002) and UNSCR 1390 (2002) the Government has adopted resolution No.820 on 4 June 2002.

The List of individuals and entities designated by the 1267 Committee was communicated by the Ministry of Foreign Affairs to all institutions responsible for the implementation of the above-mentioned Government resolutions. The Ministry of Foreign Affairs constantly informs them about additions to the List.

(Question 3) The Bank of Lithuania and Migration Department under the Ministry of Interior have noted that they encounter difficulties in identifying persons from the List due to insufficient information on names of individuals or entities.

(Question 4) So far, the Lithuanian authorities have not identified any of the individuals or entities designated by the 1267 Committee in Lithuania.

(Question 5) Lithuanian authorities are not aware of any individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List.

(Question 6) So far, no lawsuits or legal proceedings of such kind were initiated in Lithuania.

(Question 7) None of the individuals included in the List were identified as nationals or residents of Lithuania.

(**Question 8**) Chapter 5 of Article 250 "Act of Terrorism" in the Criminal Code of the Republic of Lithuania qualifies the founding a group of accomplices or an organised group for the actions listed in this article, involvement in the actions of and financing of this group, or providing material or other support thereto as a serious crime. Chapter 6 of the above article qualifies the founding of a terrorist group whose goals are intimidating people through the actions laid down in Article 250 of the Criminal Code, or raising an illegitimate demand that the state, a state institution or an international organisation carry out certain actions or refrain from them, as well as involving in and financing of the activities of such a group, or providing material or other support to such a group as an especially serious crime. Complicity (aiding and abetting), preparation for or an attempt to perform the above actions is also qualified as a crime.

III. Financial and Economic Assets Freeze

(**Question 9**) The Law on the Prevention of Money Laundering (latest amendments entered into force on 1 January 2004) gives the Financial Crimes Investigation Service under the Ministry of Interior a right to order credit and financial institutions to suspend a suspicious money operation for 48 hours. After this period ownership can remain restricted if legal proceedings have started.

Article 151 of the Code of Criminal Procedure provides for temporary limitation of ownership right. The measure may be imposed by decision of a prosecutor, in order to ensure an effective reaction by law enforcement institutions to a possible squandering of such property or transfer to other persons. Under Article 72 of the Criminal Code, the property liable to confiscation includes the instrument, means (including financial resources) or result of a crime.

Article 250 in the Criminal Code qualifies the founding a group of accomplices or an organised group for terrorist actions, involvement in the actions of and financing of this group, or providing material or other support thereto as a serious crime.

The aforementioned provisions create legal preconditions for temporary limitation of ownership right with respect to the persons who set up or finance terrorist organisations or actions, are involved in their activities, and aid and abet these actions, as well as with respect to other persons who have knowledge of or could and had to know that the property they possess is or could be used in performing the above actions. Accordingly, such kind of temporary limitation of ownership right may also be imposed on the persons who dispose legitimately of available resources that are not yet used specifically for terror acts but only for the founding or financing of a terrorist organisation.

To address shortcomings in implementation of international sanctions in Lithuania the Government has prepared Draft Law on Implementation of Economic and other International Sanctions. It is planned that the Draft Law would come into force before the date of our membership in the EU, i.e. before 1 May 2004.

(**Question 10**) The State Security Department and the Financial Crimes Investigation Service under the Ministry of Interior are the two main institutions responsible for

implementation of measures for the prevention of terrorism financing. According to the Law on the Prevention of Money Laundering the Financial Crime Investigation Service (FCIS) under the Ministry of Interior collects and examines the information about suspicious money operations. If an operation may be linked to terrorism financing, within 24 hours the FCIS communicates information about it to the State Security Department, which is coordinating institution[1] for combating terrorism and is responsible for the examination of intelligence related to financing of terrorism.

(Question 11) Article 10 of the Law on the Prevention of Money Laundering introduces the "know your customer" principle. It requires that credit and financial institutions establish identity of the customers when opening an account, accepting a deposit, providing with safe custody or other services, entering into business relations with the customer or conducting money operations with the value exceeding 50.000 Litas[2] or equivalent in foreign currency. A money operation shall be prohibited if the customer fails to provide data confirming his/her identity in the cases stipulated by this Law, provides only partial data or the provided data is false.

Government Resolution No.601 "On the approval of the Criteria in Observance Whereof a Money Operation is Considered Suspicious" of 15 May 2003 has established list of criteria of suspicious money operations, which have to be reported to the Financial Crime Investigation Service (FCIS) under the Ministry of Interior. One of the criteria is directly related to prevention of terrorism financing: an operation is qualified as suspicious, when data identifying the customer, the representative of the customer or the subject on behalf of whom the money operation is being conducted corresponds to the data provided in the lists communicated by law enforcement institutions of foreign countries or international organizations.

To implement the Government Resolution No.601 Board of the Bank of Lithuania on 29 May 2003 adopted its respective Resolution No.52 amending its previous Resolution No.122 "On Approving the Criteria for Determining whether the Monetary Operation is Suspicious".

(Question 12 and 13) So far, no assets relating to the persons and entities designated pursuant to UNSC resolutions 1267 (1999), 1333 (2000) and 1390 (2002) have been frozen in Lithuania.

(Question 14) On 24 October 2002 Board of the Bank of Lithuania adopted Resolution No.134, which approved Methodological Recommendations for Credit Institutions. Paragraph 15 of the Recommendations advises credit institutions to pay special heed to the following in the process of checking identity of their customers:

1) To customers who come from the countries placed on FATF-compiled list of non-cooperative states and territories, and to the monetary transactions conducted by these persons or in favour of them (for an updated list of non-cooperative states

[1] Decision No.25 of the State Defense Council of 19 September 2001
[2] 3,45 Litas equals to 1 EUR

and territories credit institutions are referred to the FATF official homepage http://www.fatf-gafi.org);

2) To the fact whether a customer of a credit institution is not included in the UN SC list of the persons related to terrorism (for an updated list credit institutions are referred to the UNSC official homepage http://www.un.org/Docs/sc/committees).

The control mechanism for the organisations seeking or claiming that they seek charity-social goals is laid down in the Law on Charity and Sponsorship. Article 12 of the Law defines the charity and sponsorship accounting, prescribing the obligation for both suppliers and recipients thereof to conduct accounting and submit data to territorial tax inspectorates. Article 13 of the Law identifies the institutions in control of charity and sponsorship activities and competence thereof. Article 15 prescribes the procedure for annulling the status of a sponsorship recipient upon recommendation of a control institution. This law excludes specific provisions related to the financing of terrorism.

The Bank of Lithuania does not possess information about the existence of informal banking systems in Lithuania. Article 3 of the Law on Commercial Banks stipulates that it shall be prohibited to engage in banking activities without a license of the Bank of Lithuania. Article 43 of the Law provides for that it shall be prohibited to engage in the activities of credit institution without a license or permit of the Bank of Lithuania.

IV. Travel Ban

(Question 15 and 16) In accordance with the Law on the Legal Status of Aliens, Migration Department under the Ministry of Interior maintains Database of undesirable aliens who are denied entry into the Republic of Lithuania.

Pursuant to the Government Resolutions No.1787 "On approving the procedure for drawing up, administering and using the list of aliens who are prohibited from entering into the Republic of Lithuania" of 13 November 2002 and No.820 "On measures to implement UN Security Council resolution" of 4 June 2002 all individuals designated by the 1267 Committee are included in the national Database of undesirable aliens.

(Question 17) The Database of undesirable aliens, which includes individuals designated by the 1267 Committee, is an integral part of the Information System of the State Border Guard Service and is directly accessible in electronic form at all entry points.

(Question 18) So far, none of the designated individuals were identified at the Lithuanian borders.

(Question 19) In accordance with Resolution No.1787 of the Government of the Republic of Lithuania of 13 November 2002, Ministry of Foreign Affairs is one of the institutions, which has access to the Database of undesirable aliens. Information contained in the Database is transmitted to our Embassies and Consular offices in electronic form every 2 weeks.

V. Arms Embargo

(**Questions 20, 22 and 23**) In Lithuania, the ban imposed by the UN Security Council on supply, sale and transfer of arms and related material to Usama bin Laden, members of Al-Qaida organization and the Taliban is implemented by the Government Resolutions No.1281 of 31 October 2001 and No.820 of 4 June 2002.

Lithuania's export control system is based on the Law on Control of Import, Transit and Export of Strategic Goods and Technologies (came into force on 1 July 1997). The latest amendments to the Law were passed on 5 July 2002 in order to align the national export control system with the EU and other international export control standards.

The Law on Control of Import, Transit and Export of Strategic Goods and Technologies sets that import, transit or export of controlled strategic goods and technologies, which are included in the List of Strategic Goods approved by the Government, requires a license of the Ministry of Economy.

The procedures for license issuance, as well as administrative guidelines for implementation of export, import and transit control are established by the Government Resolution No.380 "On Implementation of Export, Import, and Transit Control and Order of Licensing Procedures" on 27 March 2003.

The List of Strategic Goods was approved by the Government Resolution No.1390 "On Approval of Lists of Controlled Strategic Goods and Technologies" on 20 November 2001. It consists of two parts:

a) The list of dual goods and technologies, which is close translation of Annex I of the EU Council Regulation No.1344/2000 setting up Community regime for the control of exports of dual-use items and technology;

b) The list of military equipment, which is close translation of the EU Common list of military equipment covered by the EU Code of Conduct on Arms Exports.

The Law on Control of Import, Transit and Export of Strategic Goods and Technologies provides for that a license has to be obtained even for import, export or transit of goods that are not on the List of Strategic Goods, when:

- The competent authority (The Ministry of Economy) has informed the exporter that the goods are or may be intended for use in connection with the WMD;
- The purchasing country or the country of destination is subject to UN or EU arms embargo and the goods are or may be intended for use in production of goods listed in the military equipment list;
- The exporter has grounds for suspecting that the goods are intended for use for military purposes; in this case the exported is obliged to inform the Ministry of Economy.

To decide whether or not to grant an export licence, the competent authority (The Ministry of Economy) shall take into account the following:

- Obligations and commitments that the Republic of Lithuania has assumed by ratifying relevant international treaties;

- The national foreign policy and national security interests;
- Requirements of the European Union Code of Conduct on Arms Exports;
- International non-proliferation regimes and export control arrangements;
- Considerations about intended end-use and the risk of diversion.

According to the Law on Control of Import, Transit and Export of Strategic Goods and Technologies, the Government or the institution authorized by it draws up and approves the list of states whereto export or carriage in transit of strategic goods and the list of states wherefrom import or carriage in transit of strategic goods is prohibited, taking into account the following:

- Sanctions imposed by decisions of the Security Council of the UN;
- Sanctions imposed by decisions of the EU and the OSCE;
- Ratified relevant international treaties of the Republic of Lithuania;

The national foreign policy, national security, national defence and economic interests.

The Government authorised the Minister of Foreign Affairs to announce the list of countries subject to embargo. The list of states whereto export or carriage in transit of strategic goods is prohibited and the list of states wherefrom import or carriage in transit of strategic goods is prohibited were approved by Minister of Foreign Affairs Order No.173 on 23 December 2002, as last amended by Minister of Foreign Affairs Order No 100 adopted on 12 June 2003.

(Question 21) Article 199 of the Penal Code of the Republic of Lithuania provides for that carriage through the customs border of the Republic of Lithuania of firearms, ammunition, explosives, radioactive substances or other strategic goods without a required permit shall be punishable by imprisonment up to eight years.

Article 189 (9) of the Code of Administrative Offences of the Republic of Lithuania provides for that import, export and transit of strategic goods and technologies without a required license shall inflict upon a person or a head of an enterprise a fine of 5.000 to 10.000 Litas.